

TRANSLATION**PATENT COOPERATION TREATY****PCT****INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY**

(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

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| Applicant's or agent's file reference 1140-5/04a elektroni | FOR FURTHER ACTION | See Form PCT/IPEA/416 |
| International application No. PCT/EP2004/005473 | International filing date (<i>day/month/year</i>) 21.05.2004 | Priority date (<i>day/month/year</i>) 16.10.2003 |
| International Patent Classification (IPC) or national classification and IPC E05B65/20, E05B7/00, E05B49/00 | | |
| Applicant HUF HÜLSBECK & FÜRST GMBH & CO. KG | | |

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| 1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36. |
| 2. This REPORT consists of a total of <u>10</u> sheets, including this cover sheet. |
| 3. This report is also accompanied by ANNEXES, comprising: a. <input checked="" type="checkbox"/> (<i>sent to the applicant and to the International Bureau</i>) a total of <u>12</u> sheets, as follows: <input type="checkbox"/> sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions). <input checked="" type="checkbox"/> sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box. b. <input type="checkbox"/> (<i>sent to the International Bureau only</i>) a total of _____, containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions). |
| 4. This report contains indications relating to the following items: <input checked="" type="checkbox"/> Box No. I Basis of the report <input type="checkbox"/> Box No. II Priority <input type="checkbox"/> Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability <input type="checkbox"/> Box No. IV Lack of unity of invention <input checked="" type="checkbox"/> Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement <input type="checkbox"/> Box No. VI Certain documents cited <input type="checkbox"/> Box No. VII Certain defects in the international application <input checked="" type="checkbox"/> Box No. VIII Certain observations on the international application |

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| Date of submission of the demand | Date of completion of this report |
| Name and mailing address of the IPEA/EP | Authorized officer |
| Facsimile No. | Telephone No. |

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International application No.

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Box No. I Basis of the report

1. With regard to the **language**, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.
- ☐ This report is based on translations from the original language into the following language _____, which is the language of a translation furnished for the purposes of:
- ☐ international search (Rule 12.3 and 23.1(b))
- ☐ publication of the international application (Rule 12.4)
- ☐ international preliminary examination (Rule 55.2 and/or 55.3)
2. With regard to the **elements** of the international application, this report is based on *(replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report)*:
- ☐ the international application as originally filed/furnished
- ☒ the description:
- pages 4-12 as originally filed/furnished
- pages* 1-3, 3a, 3b received by this Authority on 10.08.2005 with letter of 09.08.2005
- pages* _____ received by this Authority on _____
- ☒ the claims:
- nos. _____ as originally filed/furnished
- nos.* _____ as amended (together with any statement) under Article 19
- nos.* 1-27 received by this Authority on 10.08.2005 with letter of 09.08.2005
- nos.* _____ received by this Authority on _____
- ☒ the drawings:
- sheets 1/4-4/4 as originally filed/furnished
- sheets* _____ received by this Authority on _____
- sheets* _____ received by this Authority on _____
- ☐ a sequence listing and/or any related table(s) – see Supplemental Box Relating to Sequence Listing.
3. ☐ The amendments have resulted in the cancellation of:
- ☐ the description, pages _____
- ☐ the claims, nos. _____
- ☐ the drawings, sheets/figs _____
- ☐ the sequence listing (*specify*): _____
- ☐ any table(s) related to sequence listing (*specify*): _____
4. ☒ This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).
- ☒ the description, pages 2, 3, 3a
- ☒ the claims, nos. 1
- ☐ the drawings, sheets/figs _____
- ☐ the sequence listing (*specify*): _____
- ☐ any table(s) related to sequence listing (*specify*): _____

* If item 4 applies, some or all of those sheets may be marked "superseded."

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| Box No. V | Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement | | |
|-----------|---|-------------------------------|-----|
| 1. | Statement | | |
| | Novelty (N) | Claims <u>2-10, 12-24, 27</u> | YES |
| | | Claims <u>1, 11, 25, 26</u> | NO |
| | Inventive step (IS) | Claims <u>18-24</u> | YES |
| | | Claims <u>1-17, 25-27</u> | NO |
| | Industrial applicability (IA) | Claims <u>1-27</u> | YES |
| | | Claims _____ | NO |
| 2. | Citations and explanations (Rule 70.7) | | |
| 1. | This report refers to the following documents: | | |
| | D1: FR-A-2 828 225 (VALEO ELECTRONIQUE) 7 February 2003 | | |
| | D2: EP-A-0 999 324 (VALEO SICUREZZA ABITACOLO S P) 10 May 2000 | | |
| | D3: FR-A-2 833 986 (VALEO ELECTRONIQUE) 27 June 2003 | | |
| | D4: DE 102 12 768 A (WITTE VELBERT GMBH & CO KG) 26 June 2003 | | |
| | D5: DE 296 23 461 U (VALEO SECURITE HABITACLE) 23 July 1998 | | |
| | D6: EP-A-0 955 431 (VALEO SECURITE HABITACLE) 10 November 1999 | | |
| 2. | INDEPENDENT CLAIM 1 | | |
| | The present application does not meet the requirements of PCT Article 33(1) since the subject matter of claim 1 is not novel (PCT Article 33(2)) for the following reasons: | | |

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|-----------|--|
| 2.1 | <p data-bbox="415 354 1390 485">Document D2 (cf. paragraphs [0009]-[0025]; figs. 1-3) discloses (the references in parentheses refer to that document):</p> <ul data-bbox="415 554 1373 1915" style="list-style-type: none"><li data-bbox="415 554 1373 1915">- an external door handle (1), in particular for vehicles, comprising a stationary support (4) fixed to the door (3), a handle (5) which is pivotably mounted on the support (4), a lock arranged in the door (3), which can be transferred from a locked into an unlocked position, the handle (5) being active in the unlocked position and inactive in the locked position for the purpose of opening the door (3), and at least one capacitive sensor electronics unit (8, 23, cf. paragraph [0013]; fig. 2) mounted either directly or indirectly on the support (4) and to which a first electrode (13), active in the outer region of the external door handle, is associated in the handle (5), wherein the active surface of said first electrode (13) senses during the approach or touch of an authorized person and should therefore be designated sensor surface, the authorized person carrying an active or passive identification means, thereby authorizing him/her to access and/or drive the vehicle, wherein |

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|-----------|--|
| | <p>at least two additional internal electrodes, <u>i.e. a second (19, 21) and a third electrode (14)</u>, of the capacitive sensor electronics unit (8, 23) are arranged in the inner region of the external door handle, between which an electric switching matrix is generated at least in the rest position, i.e. when the handle (5) is not actuated, wherein at least <u>the</u> second electrode (19, 21) that is connected to the control electronics unit (8, 23) is arranged on the support (4), wherein the control electronics unit (8, 23), at the active surface of the second electrode (19, 21), generates an electric switching matrix in the inner region of the external door handle, whereby said active surface on the support side should be designated excitation surface for the switching matrix, wherein at least <u>the</u> third electrode (14) is arranged at the handle (5), said third electrode being connected to the sensor region of the first electrode (13), which acts in the outer region of the external door handle, while the active surface of the <u>third</u> electrode (14) is electrically connected to the externally active sensor region and should be designated transmission surface for the switching matrix, wherein the switching matrix acts on the active surface of said third electrode (14),</p> |

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|-----------|---|
| | <p>whereby said active surface at the handle (5) should be designated transmission surface for the switching matrix,</p> <p>and wherein, when the handle (5) is pivoted, the excitation surface (19) of the second electrode (19, 21) rests in the support (4), while the transmission surface of the third electrode (14) can be displaced together with the handle (5).</p> <p>It should be noted that in D2 (cf. fig. 1) contacts (14, 21) are provided instead of the contactless second and third electrodes, said contacts, in the rest position, being in contact with each other and providing for the transmission of the voltage and signals. This variant is also not excluded from the invention (cf. page 6, paragraph 3 of the application). D2 also mentions an electric switching matrix that is generated between said internal electrodes (14, 21).</p> <p>2.2 Document D3 can similarly be read from the wording of claim 1, i.e. D3 is also considered prejudicial to the novelty of the subject matter of claim 1.</p> <p>In D3 (cf. page 9, line 29 - page 10, line 2; figs. 2-5), the guide means ("les moyens conducteurs (7)") are considered electrodes. Furthermore, "les moyens conducteurs (7)" of D3 (cf. page 7, lines 14-18; fig. 3), which are configured as a single piece and can be displaced together with the handle, correspond to the first</p> |

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| | <p>(37) and the third electrodes (36) of the application (cf. claim 25; fig. 4).</p> <p>3. DEPENDENT CLAIMS 2-17 and 25-27</p> <p>Claims 2-17 and 25-27 do not appear to contain any features which, in combination with the features of any claim to which they refer back, meet the PCT requirements for novelty and inventive step (see documents D1-D6 and the corresponding passages of text indicated in the search report).</p> <p>4. DEPENDENT CLAIMS 18-24</p> <p>The combination of features contained in said dependent claims is neither known from nor suggested by the available prior art.</p> <p>5. INDUSTRIAL APPLICABILITY</p> <p>Claims 1-27 meet the requirements of PCT Article 33(4) in respect of industrial applicability.</p> |

Box No. VIII Certain observations on the international application

The following observations on the clarity of the claims, description, and drawings or on the question whether the claims are fully supported by the description, are made:

1. The embodiments described on page 7 (lines 1-28) and illustrated in figs. 2 and 3 do not fall under the scope of the current claim 1 because in said embodiments (cf. figs. 2 and 3) the transmission surface of the third electrode cannot be displaced together with the handle (cf. claim 1, last paragraph).
2. In a similar manner, dependent claims 4, 5, 12 and 13, which correspond to the second and third embodiments as per figs. 2 and 3 (see also page 7, lines 1-28), are not consistent with the new claim 1.

This inconsistency between the claims and the description raises doubt as to the subject matter for which protection is sought. The claims are therefore not clear (PCT Article 6).

Supplemental Box

In case the space in any of the preceding boxes is not sufficient.

Continuation of:

Box I**Basis of the report**

1.1 The amendments submitted to the International Bureau under PCT Article 19(1) introduce substantive matter which, contrary to PCT Article 19(2), goes beyond the disclosure in the international application as filed (see also PCT Examination Guidelines, A4.05[1]. The amendments are as follows:

- Page 2, lines 11-16; lines 22-26;
- Page 3, lines 1-5; lines 10-14; lines 22-25;
- Page 3a, lines 17-19.

1.2 The applicant has replaced or deleted the following features in claim 1:

- a) "that at least two additional internal electrodes of the capacitive sensor electronics (28, 38) are arranged in the inner region of the external door handle, between which an electric switching matrix (50.1) is generated at least in the rest position, i.e. when the handle (20) is not actuated".
- b) "while the active surface of the other internal electrode is electrically connected

Supplemental Box

(34) to the externally active sensor surface (37), wherein said active surface should be designated transmission surface (36) for the switching matrix (50.1)".

The replacement or deletion of said features introduces substantive matter which goes beyond the disclosure of the application as filed, thereby contravening PCT Articles 19(2) and 34(2) (b) .

The features of the new claim 3 correspond to feature b) which is disclosed in the original claim 1.

2. In order to establish the International Preliminary Report on Patentability it was assumed that the above-mentioned features a) and b) were again included in claim 1.